IN THE NATIONAL COMPANY LAW TRIBUNAL, BENGALURU BENCH

[Through Physical hearing/ VC Mode (Hybrid)]

ITEM No.04
IA.Nos. 571/2025, IA(PLAN) 02/2024 in
C.P. (IB) No. 197/BB/2022

IN THE MATTER OF:

M/s. Triveni Education Society	...	Petitioner
Vs.		
M/s. Sovereign Industries Ltd.	...	Respondent

Petition under Section 7 of I & B Code, 2016

Order delivered on: 13.02.2026

CORAM:

SHRI SUNIL KUMAR AGGARWAL
HON'BLE MEMBER (JUDICIAL)

SHRI RADHAKRISHNA SREEPADA
HON'BLE MEMBER (TECHNICAL)

PRESENT:

For the Petitioner	: Shri Adith Jagirdhar with Shri Sriram Abhishek
For the SRA	: Shri C.K Nandakumar, Sr. Adv. with Adv Vijay parikh, Shrishail Navalgund and Anadi Soni
For the CoC	: Shri A.S Vishwajith
For the RP	: Shri Theerthesh B.S
For the Applicant in IA 168/2024	: Shri Satvik Upadhya

ORDER

I.A.No.571/2025

1. This IA has been **disposed of vide separate order** by holding initiation of CIRP of CD to be fraudulent but without retracing the steps. **The notice be issued to the Petitioner for 13.04.2026**, to show cause as to why penalty of Rs.1 crore be not imposed on them.

IA No. 416/2024

1. Although not listed today yet it had been fully heard and reserved for orders with Plan IA.
2. Vide separate order, the application of Resolution Professional is **dismissed**.

IA. (PLAN) 02/2024

1. **The Plan is rejected and application is dismissed vide separate order** and liquidation of CD is ordered.
2. On specific request of Ld Counsel for RP as well as Ld Sr. Counsel for SRA, **the order of liquidation is kept on hold for 03 weeks to enable them to pursue remedy against the order.**
3. **List the case on 13.04.2026.**

-Sd-
RADHAKRISHNA SREEPADA
MEMBER (TECHNICAL)

-Sd-
SUNIL KUMAR AGGARWAL
MEMBER (JUDICIAL)

BL

IN THE NATIONAL COMPANY LAW TRIBUNAL, BENGALURU BENCH

I.A. No. 571 of 2025 IN C.P. (IB) No. 197/BB/2022

[Application under Section 65 of the Insolvency and Bankruptcy Code, 2016]

In the matter of:

Terdal Urban Souharda Co-Operative Society Limited
Kaluti Nagar
Opp Government Degree College
TERDAL, Bagalkot, Karnataka- 587315 …Applicant

Versus

Triveni Education Society
Sy no 560/A Ward no 15, RMG College Road
Behind Old Govt Hospital
Mudhol, Bagalkot-587313 **...** Respondent 1

Shivakumar Malagan
674, Padmavati Colony,
Ward no2 , Bagalkot- 587313 **...** Respondent 2

Gurappa Reddi
Ramasagar Attibele Hobli
Anekal, Bangalore -562107 **...** Respondent 3

Basavaraj Ningappa Arakeri
Ward no2 Netravati Agro Agency
Mudhol, Bagalkot - 587313 **...** Respondent 4

Karnataka State Apex Co-op Apex Bank Limited
No 1, Uthunga, Pampa Mahakavi Road
Chamarajpet, Bangalore-560018 **...** Respondent 5

Mr Ritesh R Mahajan
Resolution Professional of Sovereign Industries
B 203, Devgiri, Ganeshmala, Singhad Road
Pune- 411030 **...** Respondent 6

IN THE MATTER OF:

Triveni Education Society … Financial Creditor

Versus

Sovereign Industries Limited … Corporate Debtor

Order delivered on: 13.02.2026

Coram:
Shri Sunil Kumar Aggarwal, Hon'ble Member (Judicial)
Shri Radhakrishna Sreepada, Hon'ble Member (Technical)

Present:

For the Applicant: Shri Abhinav Mukerji, Sr. Counsel
Shri Ankur Goel
Shri Saket Singh
Shri Raunaq Chatterjee

For the RP : Shri Rohit Gupta
Shri Thertheesh
Shrimati Prashansa Agarwal
Shri Raghuram Cadambi

O R D E R

Per Radhakrishna Sreepada, Member (Technical):

1. This Application is filed by the Applicant, under Section 65 of the Insolvency and Bankruptcy Code, 2016 (IBC) with following prayers:

   a. *Declare the initiation of the CIRP as initiated by the Financial Creditor (Respondent No. 1) against the Corporate Debtor as fraudulent and/ malicious under Section 65 of the IBC; and/or or*

   b. *Impose the penalty as stated under Section 65(1) of the IBC as against the Respondent No. 1 to 5; and/or*

   c. *As a necessary corollary to the grant of prayer 'A' herein above, invoke its inherent powers and recall the order dated 28.03.2023 passed by this Hon'ble Tribunal whereby CIRP had been initiated against the Corporate Debtor as being vitiated by fraud; and/ or*

   d. *Pass any other Order(s) that this Hon'ble Tribunal deem fit in the interest of justice and equity.*

2. **Facts of the case**:

a. This application under Section 65 of the IBC is filed on 04.07.2025, by the Applicant, Terdal Urban Souharda Co-operative Society Limited, challenging the initiation of the Corporate Insolvency Resolution Process ("CIRP") against **Sovereign Industries Limited** ("Corporate Debtor"). The Applicant contends that the CIRP was fraudulently and maliciously initiated by the Financial Creditor, **Triveni Education Society** in collusion with the erstwhile directors and the Committee of Creditors ("CoC").

b. The Corporate Debtor, engaged in sugar manufacturing, had a longstanding commercial relationship with the Applicant, whereby the latter provided loans to Cane Harvesting and Transportation contractors with the Corporate Debtor standing as Guarantor. Copy of the Guarantee executed on 26th October 2016 is placed on Record as Annexure C of the Application. Despite repayment obligations, substantial dues remained unpaid to the Applicant, who initiated proceedings under the Karnataka Souharda Sahakari Act, 1997 for recovery. During this process, the Applicant became aware that CIRP had commenced against the Corporate Debtor on default admitted by the Corporate Debtor itself.

c. Triveni Education Society, had filed Petition under Section 7 for initiating CIRP against the Corporate Debtor Sovereign Industries Ltd. The Applicant alleges that the fact of Triveni Education Society being a related party was not disclosed at the time of admission. The Corporate Debtor admitted default without contest on the first hearing date, leading to initiation of CIRP on 28.03.2023. The Applicant claims no challenge was raised to this admission order by the ex-management.

d. The Applicant submits that the conduct of the Financial Creditor, the COC led by Respondent No. 5 and other parties amounted to collusion aimed at defrauding stakeholders by initiating CIRP to

cover up irregularities, including loan evergreening and diversion of funds. Allegations are made against the Resolution Professional (Respondent No. 6) for failure to act on these discrepancies and for possible complicity by maintaining silence.

e. Hence, the present Section 65 application seeks to quash the CIRP initiation order alleged to be vitiated by fraud and collusion, with penalties sought against the parties involved. The Applicant calls for setting aside of the CIRP order dated 28.03.2023 and any consequential orders emanating therefrom.

3. **Submissions of the Applicant**:

The application has been filed on the following grounds:

a. It was stated by the Applicant that the CIRP initiated against the Corporate Debtor has been fraudulently and maliciously commenced for extraneous and ulterior motives. The Applicant contended that the Financial Creditor, being closely related to the Corporate Debtor group, has colluded with the erstwhile management and other stakeholders in orchestrating the insolvency proceedings to cover up financial irregularities and diversion of funds.

b. The Applicant emphasized that the default in payment as alleged by the Financial Creditor is disputed by the Applicant and other creditors who have dues outstanding from the Corporate Debtor. The investigation into the loan accounts, especially the sum of Rs. 61 crores advanced by Respondent No. 5 for a distillery project, reveals that the distillery was never set up and the loan amount has been misappropriated. It was argued by the Applicant that Section 65 of the IBC grants this Hon'ble Tribunal the power to quash CIRP proceedings wherever it is found that the process has been instituted with fraudulent or malicious intent.

c. Reliance was placed on ***M/s Acute Daily Media Pvt. Ltd. v. M/s Rockman Advertising and Marketing (India) Ltd. [CA(AT)(Ins.) No. 1480 of 2024]***. It was further stated that, the Hon'ble NCLAT in ***Apnaghar Builders Pvt. Ltd. v. Intense Fitness & Spa Pvt. Ltd. [(2024) SCC OnLine NCLAT 1384]*** held that collusion is proven if both creditor and Corporate Debtor are related parties. It was stated that Triveni Education Society is a related party to the Corporate Debtor, as two Governing Body members are Wife and son of the Director of the Corporate Debtor. This establishes malicious and fraudulent initiation.

d. The Applicant relied on the fact that during CIRP, the claim of Respondent No. 1 was classified as a related party claim, a fact not challenged by Triveni Education Society at any stage. The NCLAT in ***Hytone Merchants Co-op Pvt. Ltd. v. Satabdi Investments Consultants Pvt. Ltd. [CA(AT)(Ins.) No. 258/2021]*** held that proof of collusion enables setting aside CIRP, even if Section 7 ingredients are met.

e. It was submitted that the Resolution Professional (Respondent No. 6) failed in his duty to independently verify the corporate debtor's affairs and to act in the interest of all stakeholders. Silence and non-action on the part of the RP despite having information regarding financial irregularities amounts to further collusion, defeating the purpose of resolution.

f. It is also submitted that the COC, dominated by Respondent No. 5, has also acted with malafide intent by approving a Resolution Plan which benefits related parties and excludes genuine creditors, thus prejudicing the financial interests of the Applicant and defeating the object of the IBC.

g. The Applicant prayed that this Hon'ble Tribunal invoke its powers under Section 65 to



i. set aside the CIRP commencement and all orders flowing therefrom,

ii. impose penalties on the errant parties, and

iii. Direct an independent forensic audit to ascertain the true financial position of the Corporate Debtor, thereby protecting the interests of genuine creditors.

Written Submissions on Behalf of the Applicant dated 30.09.2025:

a. The Applicant relied on the principle "Fraud vitiates everything," submitted by pronouncing the admission order a non est, nullity under authority of ***A.V. Papayya Sastry & Ors. v. Govt. of A.P. & Ors. (2007) 4 SCC 221***. The fraudulent admission order dated 28.03.2023 is liable to be recalled, as orders obtained by fraud cannot stand in law.
b. The Applicant contended that Respondent No. 5 Bank deliberately advanced loans worth Rs. 61 crores for a distillery which does not exist. Despite clear diversion and siphoning of funds by ex-management, the Bank took no coercive action for over six years, even evergreening loans beyond Rs. 80 crores, implicating Bank's complicity in the fraud to cover their unlawful acts.
c. The Applicant rebutted the Respondents' claims on locus standi, maintainability, and timing, emphasizing no prohibition exists against any person filing under Section 65. The delay in filing is excusable since the fraud was only revealed recently due to enforcement attempts of arbitration awards. The Applicant also refuted claims disputing the recall of orders, asserting that fraudulent orders can and must be set aside notwithstanding subsequent orders or interests of creditors.
d. The Applicant further denied allegations of collusion with ex-management or other parties, pointing out that imposition of penalties on ex-management was also sought. The Applicant urged

that the fraudulent conduct of Respondent No. 5 and the deliberate concealment by RP and Bank necessitate stringent punitive action and referral to investigative agencies including CBI, ED, and RBI to protect stakeholder interests and uphold the integrity of CIRP.

4. **Submissions by the Respondent No. 5** :

The respondent filed its reply dated 04.09.2025 stating:

a. Respondent No. 5, Karnataka State Cooperative Apex Bank Limited, submitted that the Section 7 petition initiating CIRP was validly filed by Triveni Education Society, and the Corporate Debtor had defaulted in repayment of legitimate dues, admitted on the very first hearing, confirming the claim's genuineness.

b. The Bank denied any mala fide or collusive intent in initiating or conducting CIRP proceedings. Loans advanced for the distillery project were sanctioned with due process and appropriate security valuation. Allegations of nonexistent distillery or fund diversion were unfounded and stemmed from misconceptions or baseless claims by the Applicant.

c. It was argued that the Resolution Professional, appointed by the Tribunal, maintained transparency and had full access to records. Any alleged failure to act was a misunderstanding of his statutory remit. The Respondent further stated that the Applicant’s allegations were an attempt to derail a lawful insolvency resolution proceeding by raising collateral issues better addressed during CIRP or through appeals.

d. Respondent No. 5 submitted that the present Section 65 application is devoid of merit, with mala fide not established. The Bank urged judicial restraint to prevent misuse of CIRP for vexatious litigation and to uphold insolvency law’s spirit aimed at speedy resolution.

e. It was highlighted that post-admission, the CoC, primarily banks, controlled CIRP, appointing the Independent Resolution Professional and approving a Resolution Plan for the benefit of creditors, including orders on fraudulent transactions against erstwhile promoters.

f. The Respondent opposed recalling the CIRP initiation order, stressing such would benefit the ex-management who initially caused the issues. Notably, they pointed that the Applicant lacked locus standi and made baseless accusations to collude with the promoters, attempting to disrupt CIRP and regain control.

g. The Bank submitted evidence of due process, security interests via equitable mortgage, enforcement actions under SARFAESI, auction proceedings initiated against the Corporate Debtor, and detailed minutes of CoC meetings demonstrating legitimate CIRP conduct and exclusion of related party Respondent No. 1.

5. **Submissions by Respondent No. 6 (Resolution Professional)** :

The respondent has filed the reply dated 17.07.2025 stating:

a. Respondent No. 6, submitted that he was appointed by this Hon'ble Tribunal vide order dated 06.06.2023 to conduct the CIRP against Sovereign Industries Limited, the Corporate Debtor. The RP's role was to oversee the affairs of the Corporate Debtor as mandated under the IBC and related regulations, ensuring compliance, transparency, and protection of interests of all stakeholders.

b. The RP stated that the present application under Section 65 was filed by the Applicant, Terdal Urban Souharda Cooperative Society Ltd., who is neither a creditor nor a stakeholder in the CIRP, and thus lacks locus standi. The application is alleged to be a backdoor

attempt by the ex-promoters and their associates to disrupt the CIRP and regain control unlawfully.

c. Notably, the CIRP was initiated by Triveni Education Society, a related party in collusion with erstwhile promoters. However, from the constitution of the CoC, independent financial creditors assumed control, removing the Petitioner entity and IRP originally appointed at their instance. Respondent No. 6 was subsequently appointed as RP through an independent CoC decision, confirmed by this Tribunal.

d. During the CIRP, the CoC thoroughly scrutinized the claims against Respondent No. 1, excluding them due to being a related party. The RP also commissioned expert consultation confirming this relationship. Consequently, Respondent No. 1 neither remained part of the CoC nor influenced the CIRP's conduct or the approval of the Resolution Plan.

e. It was submitted that a CIRP, after admission, ceases to be a bilateral proceeding and becomes a collective proceeding in rem, concerning all creditors. Recall of the admission order would reinstate the ex-promoters who were the very parties alleged to have defrauded stakeholders, defeating the statute's purpose. The RP emphasized that the Resolution Plan approved recently benefits all creditors, providing a substantial financial package, and that promoters have failed in attempts to derail the CIRP through frivolous objections.

f. Additionally, the RP pointed out that the promoters entered into suspicious transactions before and during CIRP, for which this Tribunal has passed orders directing recovery of significant funds. The RP had filed an application under Section 66 of the IBC addressing fraudulent conduct of erstwhile directors, which was allowed with consequential directions.

g. The RP contended that the instant application is a delayed, mala fide attempt originating at the behest of promoters, not bona fide stakeholders. The application was filed just as the hearing on the approved Resolution Plan was nearing conclusion, indicating an ulterior motive to frustrate the CIRP.

h. Finally, the RP opposed the recall of the CIRP initiation order but supported the imposition of penalties under Section 65 on the errant parties (including promoters and related financial creditor) for fraudulent and malicious acts, recommending referral for disciplinary proceedings under the Code.

6. **ANALYSIS**:

7. We have heard the learned counsel for the Applicant and the Respondents and perused the record in detail.

8. Before we proceed, the issues to be decided are

   a. Whether the Applicant has any locus standi to move the present application.

   b. Whether the Application belatedly filed can be entertained at this advanced stage of CIRP process.

8.1. **Whether the Applicant has any locus standi to move the present application:**

The Applicant has brought on record the Guarantee provided by the Corporate Debtor in his favour by Document dated 26.10.2016. Since the existence of Financial Debt by way of Guarantee provided is established, the Applicant has to be considered as an Interested Party. The Applicant claims to have issued numerous reminders to the Corporate debtor which did not yield any response. Hence, it is necessary for the Applicant to file this petition to safeguard its financial Interest,

In view of this, We are of the Considered Opinion that the Applicant does have locus standi to move this petition.

8.2. **Whether the Application belatedly filed can be entertained**

at this advanced stage of CIRP process:

To substantiate the application filed at the Very advanced stage of proceedings of CIRP, the Applicant has brought on Record copies of AWARD/ Judgement passed by **Deputy Registrar of Co-op Societies, Disputes Panchayat Court, Belgaum Bench**, against various Borrowers and the Guarantor, in respect of whom the Corporate Debtor stood as a Guarantor. It is submitted that while attempting to recover the dues as per the Award from the Corporate Debtor, the Applicant came to Know about the pending CIRP proceedings against the Corporate Debtor.

Considering the above factual submissions, We Consider that the Application is maintainable even though it has come very late in the Proceedings under CIRP.

The contention that the applicant can file an application under Section 65 is held valid in light of decision by the Hon'ble NCLT, Hyderabad Bench in ***Mphasis Limited v. Shri Krishna Mohanlal Gollamudi and 2 Ors., (2024) ibclaw.in 575 NCLT*,** dated 07.06.2024, under Para No. 40 held as follows:

> *"40. A bare perusal of section 65 of IB Code, which is as below, discloses that, Section 65 IBC, is silent on who can/should file the application under the said provision. So much so,* ***any person who is affected/aggrieved by the fraudulent initiation of the CIRP can trigger the process under section 65 IBC,*** *before this Tribunal. Moreover, the locus of a person to file a case is decided basing on the provisions under which the case was brought and also the reliefs sought in the case. The Applicant herein filed the present Application under Section 60(5) and sought relief under Section 65 of IBC. Section 60(5) is considered to be a residuary provision under IBC which takes under its sweeps all types of cases of the Corporate Debtor, provided the same arise out of the CIRP or Liquidation of the Corporate Debtor."*

9. The Next Questions to be decided are

a. Whether the Application filed under Section 7 is by a Related Party.

b. Whether the Application filed is for fraudulent purpose.

These are examined in detail below.

9.1. **Whether the Application filed under Section 7 is by a Related Party:**

1. Page no 1-23 of the Documents filed by the Applicant on 18.07.2025 during the Course of hearing, contain the Financial Statements of the Corporate Debtor for the financial Year ending 31.03.2022. These documents consist of Audited Profit and Loss Account and Balance Sheet duly certified by Dr N A Charantimath of Charanthimath Associates, Chartered Accountants.

   As per these Documents **Shri SHIVAKUMAR MALGHAN** (DIN No 01737558) is a Director of the Corporate Debtor, SOVEREIGN INDUSTRIES LIMITED.

2. The Documents filed along with this petition indicate that as on 12.10.24 also

a. Smt NIRMALA SHIVAKUMARA MALAGHANA is a Member and

b. Sri SHISHIR SHIVAKUMARA MALAGHANA is the Executive CHAIRMAN Of TRIVENI EDUCATION SOCIETY, MUDHOL.

The details of the Society are also verified from the Details available online. They are

TRIVENI EDUCATION SOCIETY MUDHOL

TRIVENI EDUCATION SOCIETY MUDHOL IS ESTABLISED AS ON 23-June-2006 As A Registered Society (Non-Government) IN KARNATAKA.

TRIVENI EDUCATION SOCIETY MUDHOL BASIC DETAILS

NGO ID	KA/2022/0308488



Registration With	Registrar of Societies
NGO TYPE	Registered Societies (Non-Government)
Registration No	DRBGK/79/2006-2007
Act name	Karnataka Society Registration Act, 1960
Registered City	MUDHOL
Registered State	KARNATAKA
Registration Date	2006-06-23 00:00:00.000000

MEMBERS of TRIVENI EDUCATION SOCIETY MUDHOL

NAME	Designation
NIRMALA MALAGHAN	PRESIDENT
SHISHIR MALAGHAN	SECRETARY
SHRINIVAS YARAGATTI	TREASURER

The above persons namely Smt Nirmala and Sri SHISHIR are related to the Director of the Corporate Debtor.
Since they are related parties, the Collusion between them is established as observed in the following NCLAT Judgement.

9.1.1. The NCLAT judgment in ***Apnaghar Builders Pvt. Ltd. v. Intense Fitness & Spa Pvt. Ltd., (2024) SCC OnLine NCLAT 1384 dated 28.11.2024*** under Para No. 48 held as follows:

> *"38. The collusion between Respondent No. 1 and Respondent No. 2 can be ascertained if it is found that both are related parties. In this regard, the first evidence which has been referred to by the Appellant is from the audit report of Respondent No. 1 in which Note 3, pertaining to long term borrowings, recorded as under…. "*



9.1.2. This established that collusion is proven when a related party financial creditor initiates proceedings against a corporate debtor. The bench held that when a creditor closely related to the corporate debtor institutes insolvency proceedings, the Adjudicating Authority should exercise caution and investigate whether the initiation is for genuine resolution purposes or for collusive reasons.

9.1.3. In light of the above decision and the evidence on record it is conclusively demonstrated that Triveni Education Society, the Financial Creditor, is a related party to the Corporate Debtor. Two Governing Body members of Financial Creditor are the Wife and son of the Director of the Corporate Debtor. This relationship was not disclosed at the time of filing the Section 7 petition, in direct violation of disclosure requirements. It is also to be mentioned that this was neither disputed nor rebutted by the respondent hence making them a related party.

9.1.4. In the light of these facts and respectfully following the NCLAT decision cited above, the Conclusion that can be drawn is that the Petition filed under Section 7 by the Triveni Education Society is a Collusive Petition.

9.2. The Next Issue to be decided is

Whether the Application filed is for fraudulent purpose?

9.2.1. At page 15 of the Documents filed on 18.7.25 which are the Audited Financial Statements for the Year ending 31.03.2022 the Schedule 4 dealing with OTHER LONG TERM LIABILITIES lists

TRIVENI EDUCATION SOCIETY Rs 80.39 Lakhs.

This Indicates that the liability, if any was less than the Threshold Limit to move a Section 7 Petition.

9.2.2. It is also mentioned on this page that as on 02.09.2022, the date of the Audit Report, **The Company has not been declared as a Wilful Defaulter by any Bank or Financial Institution or Other Lender**.

9.2.3. Surprisingly, the Petition u/s 7 is filed on 14.10.2022.

10. **Conduct of the RESOLUTION PROFESSIONAL**:

10.1. The Resolution Professional's conduct during the CIRP has been marked by failure to independently verify material facts and to act in the interests of all stakeholders. The RP was apprised of the related party status of Triveni Education Society but failed to conduct independent investigation into the loan account irregularities, the non-existent distillery, and the systematic evergreening of accounts. This silence, despite having information regarding financial irregularities, amounts to further collusion and defeats the purpose of CIRP as a transparent and stakeholder-protective mechanism. While Respondent No. 6 did not technically 'initiate' the CIRP and thus cannot be directly penalized under Section 65(1), their conduct in failing to conduct independent verification despite having information regarding the related party status and financial irregularities constitutes professional negligence and possible complicity.

10.2. The RP Being an Officer of the Court is expected to place the full factual information before this Authority. However, We find that till this Application is filed, the RP maintained a strategic silence and did not deem it necessary to place the factual position before this Authority. This raises doubts on the unbiased functioning of the RP.

10.3. It is only after this petition is filed the RP files an Affidavit from page 2 to 11 on 17.07.2025 Vide Diary no 3878. In this Affidavit,

1. At Para 1 on Page 3 it is stated

" **The petition was filed by a related party to illegally stall proceedings initiated under the Securitisation and Reconstruction of Financial Assets and Enforcement of Interest (SARFAESI) Act,2002.**"

2. At Para 7 on Page 8 it is stated

" **The CIRP was initiated by Respondent 1 in collusion with the erstwhile Promoters**"

3. At Para 11 on Page 9 It is Stated

" **It is therefore Clearly a case in which though the promoters fraudulently initiated CIRP, they Could not control the process**"

These submissions made by the RP now in a Notarized Affidavit conclusively establish that the RP was well aware of the Collusive and fraudulent initiation of the Proceedings. But, for reasons best known to him, he abdicated his responsibility to this Adjudicating authority and did not deem it necessary to bring the factual position on record. This Obliquely suggests Collusive actions of RP. This Conduct of the RP deserves to be reported to the IBBI for Suitable action as deemed appropriate.

Hence, the Registry is directed to forward a Copy of this Order to The IBBI for appropriate Action as deemed fit.

11. While the evidence establishes that the CIRP was initiated through fraudulent and collusive means in violation of Section 65, this Tribunal exercises its discretion not to recall the admission order at this advanced stage since the CIRP has progressed substantially, and the COC, after removing the related party Financial Creditor (Respondent No. 1), has exercised independent judgment in approving a Resolution Plan for the benefit of bona-fide creditors. Recalling the CIRP at this stage would prejudice secured and operational creditors who have acted in reliance on the process. Further in the case of ***Expert Realty Professionals Pvt. Ltd. v. Logix Infrastructure Pvt. Ltd., (2025) ibclaw.in 724 NCLAT***, the NCLAT, while affirming that fraud vitiates CIRP proceedings, recognized that the Adjudicating Authority possesses discretion to balance the equities and ensure that innocent stakeholders are not prejudiced by recall, particularly at an advanced stage. The imposition of penalties under Section 65 adequately serves



the purpose of deterrence and protection against fraud, while allowing the CIRP to continue uninterrupted to maximize creditor recovery.

12. Respondents have argued that the delay in filing the present Section 65 application filed significantly after the CIRP initiation order dated 28.03.2023 renders it time-barred or devoid of merit. However, we find this argument untenable since Section 65 of the IBC contains no temporal limitation on filing such applications. Unlike appeals (which are time-barred), Section 65 applications can be filed at any stage if fraud is subsequently discovered. Further, the discovery of fraud here was recent and triggered by enforcement of arbitration awards, which brought to light the true status of loan accounts and the non-existent distillery project.

13. The Hon'ble NCLAT in ***Expert Realty Professionals Pvt. Ltd. v. Logix Infrastructure Pvt. Ltd. (2025) ibclaw.in 724 NCLAT***, explicitly held that the stage of CIRP is immaterial when considering Section 65 applications, and delay in filing does not disentitle the applicant and Section 65 operates as a safeguard mechanism and cannot be circumscribed by temporal limitations imposed by the doctrine of limitations, as that would render the fraud-prevention purpose of the provision nugatory.

14. The Hon'ble Supreme Court in the case of ***Shree Ambica Rice Mill Vs. Kaneri Agro Industries Ltd., (2021) ibclaw.in 318 NCLAT,*** dated 13.07.2021, under Para 19 held as follows :-

> *"19**.** Thus, it is clear that the Adjudicating Authority is obliged to investigate the nature of the transaction and should be very cautious in admitting the Application in order to prevent taking undue benefit of provisions of IBC to detriment of the rights of legitimate creditors as well as to protect the Corporate Debtor from being dragged into CIRP with mala-fide. Section 65 provides that if*

any person initiates the Insolvency Resolution Process or liquidation proceedings fraudulently or with malicious intent for any purpose other than for resolution of Insolvency or Liquidation, the Adjudicating Authority may impose upon such person a penalty. Section 65 provides that where any person furnishes any information under Section 7, which is false in material particulars, knowing it to be false or omits any material facts, knowing it to be material such person shall be punished with fine.

15. As far as the penalty goes, the imposition of penalty will be in accordance with the statute. Sec 65 has been reproduced below:

(1) If, any person initiates the insolvency resolution process or liquidation proceedings fraudulently or with malicious intent for any purpose other than for the resolution of insolvency, or liquidation, as the case may be, the Adjudicating Authority may impose upon such person a penalty which shall not be less than one lakh rupees, but may extend to one crore rupees.

(2) If, any person initiates voluntary liquidation proceedings with the intent to defraud any person, the Adjudicating Authority may impose upon such person a penalty which shall not be less than one lakh rupees but may extend to one crore rupees.

[(3) If any person initiates the pre-packaged insolvency resolution process—

(a) fraudulently or with malicious intent for any purpose other than for the resolution of insolvency; or

(b) with the intent to defraud any person,

the Adjudicating Authority may impose upon such person a penalty which shall not be less than one lakh rupees, but may extend to one crore rupees.]

16. Applying the statutory provisions of Section 65(1) and the judicial precedents cited above, this Tribunal hereby directs the Registry to issue a Show cause notice as to why a penalty of ₹1,00,00,000/- (Rupees One Crore only) should not be imposed to the Respondent No. 1 (Triveni Education Society) for having fraudulently and maliciously initiated the CIRP against the Corporate Debtor with intent to defraud stakeholders and for purposes other than genuine insolvency resolution. The respondents may be asked to reply not later than **15th of March**,**2026** on which date the issue of imposition of Penalty will be decided.

17. In light of the evidence and legal precedents cited herein, following directions are issued :

i. While the evidence establishes fraudulent initiation vitiated by collusion, prayer seeking recall of the CIRP admission order dated 28.03.2023 is declined at this advanced stage.

ii. The RPs matter is required to be referred to the Insolvency and Bankruptcy Board of India (IBBI) for disciplinary proceedings under Regulation 16 of the IBBI (Insolvency Professionals) Regulations, 2016.

The Registry is directed to forward a Copy of this Order to the IBBI for appropriate action.

iii. The Registry is directed to send the Show cause notice to the Triveni Education Society as mentioned in para 15 Supra.

18. The Application in IA no 571/BB/2025 is **Disposed** with the above directions.

-Sd-

RADHAKRISHNA SREEPADA
MEMBER (TECHNICAL)

-Sd-

SUNIL KUMAR AGGARWAL
MEMBER (JUDICIAL)